

REMARKS

Claims 1 and 2 are currently pending in the present application. In the Office Action, Claims 1 and 2 have been rejected under 35 U.S.C. §103(a) as being unpatentable over European Patent Application Publication No. EP 1039 768 A2 (Sim) in view of Kinnunen et al. (U.S. Pub. 2001/0021649).

The Examiner reasserted the same rejection as in the last Office Action and made the rejection Final. The Examiner states this is because the arguments presented in the last reply were unpersuasive. The Applicant respectfully submits that the Examiner is incorrect.

Reconsideration of the instant application is respectfully requested.

Sim discloses a data transmitting and receiving apparatus and method for a digital mobile station.

Kinnunen discloses a receiver, which is initially presented with a message header screen 11 (Fig. 3) setting out details 12 of the message including warnings of any content which may alarm or otherwise disturb the recipient such as the presence of loud sounds and the like. The message header might also list the requirements for reading the file. For example, the file may contain a video clip that may be displayed on a television. (See Paragraph 0021).

On page 6 of the Office Action, in response to Applicant's argument that Kinnunen does not output an alarm the Examiner alleges the combined teaching of Sim and Kinnunen teach the "outputting" step recited in the claim. The Examiner continued "Both Sim and Kinnunen disclose header information, the header information indicates what type of content the handset has received or outputted. The header information in this regard serves as feedback to the user, such as outputting an alarm and/or displaying a predetermined object or icon as indicated by Kinnunen. Kinnunen further discloses that the receiver is initially presented with a message header screen 11 (FIG. 3) setting out details 12 of the message including warnings of any content which may alarm or otherwise disturb the recipient such as the presence of loud sounds and the like. Thus, Kinnunen discloses outputting

discloses outputting an alarm as recited in Claim 1.”

There are several issues with the Examiner’s assertion. First, the Examiner states that both Sim and Kinnunen disclose header information. The header information in this regard serves as feedback to the user, such as outputting an alarm and/or displaying a predetermined object or icon as indicated by Kinnunen. However, the Examiner failed to provide any citation where the disclosure is found. Second, the Examiner cites FIG. 3 of Kinnunen as disclosing a message header screen setting out details 12 of the message including warnings of any content which may alarm or otherwise disturb the recipient such as the presence of loud sounds and the like. The Examiner misconstrues the disclosure of Kinnunen. Specifically, Kinnunen teaches warnings of any content, which may alarm or otherwise disturb the recipient. To disturb means to destroy the tranquility whereas Claim 1 recites outputting an alarm as to alerting not to disturb. Applicant has therefore amended the phrase “outputting an alarm” to “alerting” as set forth above to better describe the limitation.

Furthermore, regarding the §103(a) rejection in view of Kinnunen, Applicant submits herewith with this Response a 37 C.F.R. §1.131 Declaration, establishing reduction to practice of the invention of the pending application in the Republic of Korea prior to December 22, 2000, which is the effective filing date of the Kinnunen reference. Specifically, Exhibit 1 of the enclosed Declaration is an invention disclosure document showing that the invention of the pending application was completed at least before December 22, 2000, which is earlier than the effective filing date of the Kinnunen reference. A certified translation of the invention disclosure document is provided at Exhibit 2. Additionally, a certified translation of application number 2001-0021649 that was filed with the Korean Intellectual Property Office on January 11, 2001, is being provided as Exhibit 3. It is respectfully asserted that this §1.131 Declaration renders Kinnunen ineffective as to the present claims. Accordingly, it is respectfully submitted that the §103(a) rejections citing Kinnunen, should be withdrawn. Withdrawal of the same is respectfully requested.

Accordingly, amended independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claim 2, it is likewise believed to be allowable by virtue of its dependence on Claim 1. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2 is also respectfully requested.

allowable by virtue of its dependence on Claim 1. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2 is also respectfully requested.

As Sim does not disclose at least the above elements of amended Claim 1, withdrawal of the rejection is respectfully requested.

Independent Claim 1 is believed to be in condition for allowance. Without conceding the patentability per se of dependent Claim 2, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 2 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1 and 2, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



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